

**Orders on IA No. III filed under Section 151 of CPC.,**

The plaintiff has filed this application Under Section 151 of CPC, to club the suit for recording common evidence with the suit in OS No. 237/2013.

**2.** It is stated in the affidavit that the plaintiff has filed the above suit for the relief of permanent injunction, in respect of the land bearing Sy. No. 118/9A, measuring 2 acre 47 cents, situated in Kandavara Village. The defendants No. 1 and 2 in the present suit have filed a suit for the relief of partition in respect of a portion of Sy. No. 118/9A, measuring 89 cents situated in Kandavara Village. Defendant No. 3 and 4 in the present suit are defendants No. 1 and 2 in OS No. 237/2013. The suit filed by the plaintiff in the present suit, is a cross suit to the above suit, in OS No. 237/2013, filed by the defendants No. 1 and 2. The evidence to be adduced by both the parties in OS No. 237/2013, and OS No. 205/2014 and the documents to be produced by both the parties in the aforesaid two suits are common. As such to avoid duplication of evidence and inconsistent judgment in both the suits, both the suits require to be clubbed together, and common evidence requires to be recorded and a common judgment requires to be passed by the Court. Hence prays to allow the application.

**3.** The defendants have submitted no objection to the above application.

**4.** Heard the counsel for both and perused the materials on record.

**5.** The points that would arise for my consideration are as under:

**//POINTS//**

**1) Whether the plaintiff has made out the grounds to allow the application ?**

**6.** My answer to the above point is in the **NEGATIVE** for the following:

**// REASONS //**

**7.** The plaintiff has filed this suit against the defendants for the relief of permanent injunction in respect of land bearing Sy. No. 118/9A, measuring 2.47 acre of Kandavara Village. The present application is filed to club the suits for common trial and to pass common judgment. The defendant No. 1 and 2 herein have filed the suit in OS No. 237/2013 against the plaintiff, the defendants No. 3 and 4 herein and others for the relief of partition in respect of survey No. 118/9A, measuring 0.89 cents of Kandavara Village. The subject matter in both suits are one and the same. The intention behind clubbing the suits is to avoid conflicting judgments. The application for clubbing the suits has to be filed before commencement of evidence, but in OS No. 237/2013 the plaintiff has already been examined as PW1 and partly cross examined by the counsel for defendant. In the present suit the evidence has not yet commenced. The clubbing would lead to complications due to the different stages in both suits. The application is filed at the belated stage. Therefore this Court is of the opinion that the application deserves to be rejected. Accordingly this Court proceeds to pass the following:

**ORDER**

**The IA No. 3 filed by the plaintiff Under Section 151 of CPC., is hereby rejected.**

**For Plaintiff Evidence.**

**Call on 28-10-2024.**

II Addl. Civil Judge and J.M.F.C.,  
Kundapura